

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

MED FLIGHT AIR AMBULANCE, INC.,

Plaintiff,

v.

No. CV-17-246 WJ/KRS

MGM RESORTS INTERNATIONAL, SIERRA  
HEALTH-CARE OPTIONS, UMR, INC., and  
BEATRIZ HERNANDEZ, SPECIAL  
ADMINISTRATOR OF THE ESTATE OF ADRIAN  
HERNANDEZ, DECEASED,

Defendants.

**ORDER DENYING MOTION TO DISMISS WITHOUT PREJUDICE**  
**and**  
**ALLOWING DEFENDANT TO RE-FILE MOTION**  
**AFTER RULING ON PENDING MOTION TO COMPEL**

THIS MATTER comes before the Court on Defendant MGM Resorts International's Motion to Dismiss First Amended ERISA Complaint Filed in Federal Court for Lack of Personal Jurisdiction, filed March 24, 2017 (**Doc. 21**). This case arises from a denial of insurance benefits for Mr. Hernandez in connection with a medical helicopter ride from a hospital in San Antonio, Texas to Las Vegas, Nevada.

Defendant MGM seeks its dismissal from this case based on lack of personal jurisdiction, and the motion is now fully briefed. However, in the response, Plaintiff notes that there is a continuing dispute regarding jurisdictional discovery which has been proceeding and which is the subject of a Motion to Compel filed by Plaintiff and pending before the Magistrate Judge assigned to this case for a hearing currently for September 11, 2017 (*see* Doc. 43). Plaintiff requests that the Court withhold a final decision on the motion to dismiss until the jurisdictional

discovery disputes are fully resolved, at which point Plaintiff will seek to supplement its response.

The Court expects that a resolution of the discovery disputes in this case will not only require a supplementation of Plaintiff's response, but also of Defendant's reply, and the Court is not inclined to consider this matter by cobbling together two sets of briefs on the same issue once the discovery matters are settled. The better course is for the parties to re-file their briefs incorporating any new discovery information at a later time.

**THEREFORE,**

**IT IS ORDERED** that Defendant MGM's Motion to Dismiss (**Doc. 21**) is **DENIED WITHOUT PREJUDICE** at this time.

**IT IS FURTHER ORDERED** that the Magistrate Judge shall enter a new deadline for the motion to dismiss once the motion to compel is ruled on and the jurisdictional discovery disputes are resolved.

**IT IS FURTHER ORDERED** that Defendant may re-file the motion to dismiss within that deadline once the jurisdictional discovery disputes are resolved.

  
UNITED STATES DISTRICT JUDGE